

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

SARA CARDENAS and
JACOB CARDENAS,

Plaintiffs,

v.

JOSE GARCIA and
ROAD WARRIORS, INC.,

Defendants.

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CIVIL ACTION NO.: _____

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1332, 1441, and 1446, Defendant Jose Garcia hereby gives notice and removes to this Court the state court lawsuit described below, and as grounds for removal state as follows:

1. This Notice of Removal is supported by the facts set forth below, and an Index of Matters Being Filed is attached hereto as **Exhibit 1**.

INTRODUCTION

2. On or about September 26, 2017, Sara Cardenas and Jacob Cardenas commenced the matter styled *Sara Cardenas and Jacob Cardenas v. Jose Garcia and Road Warriors, Inc.* in the District Court of Harris County, Texas, 151st Judicial District, and bearing Cause No. 2017-63852 (the “State Court Action”) by filing Plaintiffs’ Original Petition and Request for Disclosure.

3. This case is properly removed under 28 U.S.C. § 1441 because (a) original federal jurisdiction lies under 28 U.S.C. § 1332 (diversity of citizenship) and (b) the procedural requirements for removal are satisfied. In particular, complete diversity of citizenship exists

between all Plaintiffs and Defendants; the amount in controversy exceeds \$75,000, exclusive of interest and costs; and this Notice of Removal has been filed within thirty days of the date that Jose Garcia received notice of the State Court Action.

TIMELINESS OF REMOVAL

4. Defendant Jose Garcia was personally served with Plaintiffs' Petition on November 1, 2017. *See Exhibit 2.*

5. The Notice of Removal has been filed within thirty (30) days of service and is thus timely. *See* 28 U.S.C. § 1446(b).

JURISDICTION UNDER 28 U.S.C. §1332 and §1441

6. This Court has original subject matter jurisdiction of the State Court Action under 28 U.S.C. § 1332, in that (1) the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and (2) is between citizens of different states.

7. In their Petition, Plaintiffs allege damages in excess of \$200,000. *See Exhibit 2*, at ¶ IX. The amount in controversy therefore exceeds \$75,000.

8. Upon information and belief, and as alleged in their Petition, Plaintiffs are both citizens of Texas, residing in Harris County. *See Exhibit 2*, at ¶ II.

9. Defendant Jose Garcia is a citizen of Florida, and Defendant Road Warriors, Inc. was incorporated in North Carolina and has its principal place of business in North Carolina.

10. Because Plaintiffs are citizens of Texas and Defendants are citizens of Florida and North Carolina, complete diversity of citizenship exists between Plaintiffs and Defendants. Accordingly, this matter is removable under 28 U.S.C. §1441 in that it is a civil action over which the United States District Court for the Southern District of Texas has original subject matter jurisdiction under 28 U.S.C. §1332.

11. All Defendants who have been properly joined and served join in or consent to the removal of the State Court Action pursuant to 28 U.S.C. §1446(b)(2)(A).

12. In the State Court Action, Plaintiffs requested a trial by jury.

13. Defendant reserves the right to submit additional evidence and assert supplemental grounds in support of removal as appropriate in the future. By virtue of this Notice of Removal, Defendant does not waive their right to assert any and all claims, defenses, or other motions permitted under the Federal Rules of Civil Procedure. This Notice of Removal is being filed subject to any and all such claims, defenses, and other motions under the Federal Rules of Civil Procedure.

14. Pursuant to 28 U.S.C. §1446(d), Defendant will promptly give written notice to all other parties and will file a copy of the notice with the clerk of the State Court Action.

15. Pursuant to Local Rule 81, this Notice is accompanied by the documents to be filed upon removal.

WHEREFORE, Defendant Jose Garcia hereby removes this action to the United States District Court for the Southern District of Texas, Houston Division.

Dated: November 15, 2017

Respectfully submitted,

By: /s/ Mark L. Clark

Mark L. Clark

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ATTORNEYS FOR DEFENDANT JOSE GARCIA

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing will be served by certified mail, return receipt requested and via electronic mail, on counsel of record, on November 15, 2017:

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